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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

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SEP 29 1997

FEDERAL COMMUNICATIONS COMMISSION
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In the matter of

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Implementation of the Subscriber Carrier
Selection Changes Provisions of the
Telecommunications Act of 1996

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CC Docket No. 94-129

Policies and Rules Concerning
Unauthorized Changes of Consumers'
Long Distance Carriers

BELL ATLANTIC REPLY COMMENTS

Bell Atlantic¹ respectfully replies to the comments filed on the Commission's proposed rules to implement the carrier selection provisions of the Telecommunications Act of 1996.

Introduction and Summary

Several facilities-based carriers, both incumbent interexchange carriers and competitive local exchange carriers, have seized upon this proceeding to pursue their own separate agendas. They propose several discriminatory requirements that would apply only to incumbent local exchange carriers and would place incumbent LECs at a serious competitive disadvantage. These unjustified proposals are a brazen attempt to game the regulatory process. There is no reason to create less stringent requirements for new

¹ These reply comments are filed on behalf of the Bell Atlantic telephone companies which are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

entrants or incumbent interexchange carriers with a history of violating the Commission's slamming rules.

Several commenters recommend the use of a third party to administer and execute PC changes and freezes, but none of them offer anything more than speculations and anecdotes to support their recommendation. It is hard to imagine a more expensive solution to a problem that doesn't even exist. Moreover, existing nondiscrimination requirements are more than adequate to address any problem that might develop in the future.

I. THE COMMISSION SHOULD REJECT PROPOSALS TO IMPOSE DISCRIMINATORY REQUIREMENTS ON INCUMBENT LOCAL EXCHANGE CARRIERS.

Several commenters have been anything but bashful in their efforts to gain a competitive advantage through this proceeding. Their proposals would impose discriminatory requirements on incumbent LECs and tilt the competitive playing field in favor of new entrants. None of these proposals is warranted.

WorldCom and Time Warner propose the most outrageous requirement of all for incumbent LECs. They ask the Commission to prohibit incumbent LECs from sending marketing and promotional letters, brochures, or any other type of solicitation to customers who have requested to be changed to a new LEC.² This rule would forever bar Bell Atlantic from competing to win back any customer it loses to a new entrant, while giving new entrants *carte blanche* to market their services to any Bell Atlantic customer, including those who returned to Bell Atlantic from the new entrant. This proposal is an

² WorldCom Comments at 6; Time Warner Comments at 4-5.

anti-competitive restraint of trade and an infringement on constitutionally protected speech. Bell Atlantic's retail marketing personnel will not have any competitive advantage because they will receive notice of their customer's decision to switch away from Bell Atlantic within the same time frame that other carriers will receive notice from Bell Atlantic that they have lost a customer. Retail marketing personnel at Bell Atlantic and competitive carriers will be competing on the same level playing field when they market to their former subscribers. Accordingly, this proposal warrants no further consideration.

Several carriers want the Commission to prohibit incumbent LECs from soliciting or enforcing PC freezes for local and intraLATA services for anywhere from six months to forever.³ Any such prohibition would be an affront to consumers who want and who depend on PC freezes to protect them from slamming. In fact, the Common Carrier Bureau's Enforcement Division routinely recommends that consumers request PC freezes from their incumbent LEC to protect themselves from slamming.⁴ There is absolutely no reason why the Commission should take that protection away from incumbent LEC subscribers or prohibit them from obtaining it in the future. All subscribers should be able to obtain the slamming protection they desire from incumbent LECs and new entrants alike.

³ CompTel Comments at 8 (six months); MCI Comments at 15-16 (one year for intraLATA toll; permanent for local); LCI Comments at 1 (permanent for local).

⁴ See Common Carrier Scorecard, Fall 1996, at 7 ("[i]f you have been slammed or simply want to make sure that your service is not changed without your knowledge or consent, contact your local telephone company today and request that it obtain your permission before changing your long distance company").

CompTel recommends that incumbent LECs “should be required (1) to obtain third party verification and (2) to provide appropriate verification materials to the Commission or any carrier upon request.”⁵ This recommendation is completely unjustified. CompTel offers absolutely no reason why an incumbent LEC should not be able to verify a subscriber’s PC change through any of the other verification methods the Commission has already found to be reliable, such as a signed letter of authorization or an electronic authorization.

CompTel also proposes that ONLY incumbent LECs should have to comply with PC change verification requirements on inbound calls because “consumers have a variety of reasons (other than PC-changes), including repair requests and service and billing inquiries, to contact their incumbent LEC”⁶ This distinction does not bear scrutiny. Incumbent interexchange carriers today handle repair calls and respond to service and billing inquiries directly from their subscribers. Subscribers of new local exchange carriers will also have a variety of reasons to call their carrier. There is, therefore, no reason to single out incumbent LECs for a discriminatory verification requirement on inbound calls.

Moreover, inbound calls by subscribers to an incumbent LEC to request repair services, ask about their bills, or even to inform the LEC of a preferred carrier selection⁷

⁵ CompTel Comments at 6. *See also* LCI Comments at 10; ACTA Comments at 19.

⁶ CompTel Comments at 10.

⁷ As US West points out, verification should not be required for inbound calls to the LEC by customers who have previously determined their preferred carrier. Clearly, these calls are not telemarketing calls. US West Comments at 34.

are not telemarketing calls and therefore would not be covered by the Commission's current rules if the stay is lifted. As several commenters have explained,⁸ there is no evidence in the record to show that these calls or any other inbound calls have generated a significant number of slamming complaints. There is simply no benefit to be gained from imposing the well-documented costs and burdens of verification requirements on any inbound calls.

Finally, CompTel argues that incumbent LECs -- and only incumbent LECs -- should be required to "give PC-change information customer proprietary network information ("CPNI") protection."⁹ This recommendation is completely nonsensical. If information is entitled to CPNI protection when it is held by an incumbent LEC, it is certainly entitled to the same protection when it is held by any other carrier.

II. THERE IS NO REASON FOR A THIRD PARTY TO ADMINISTER AND EXECUTE PC CHANGES AND PC FREEZES.

Several commenters recommend that the Commission require a third party to administer and execute all PC changes and all PC freezes.¹⁰ This third party would purportedly perform such functions as receiving "electronic feeds from carriers," "check[ing] to ensure that the carrier with a history of slamming and lax verification procedures has submitted properly verified PC change orders," "order processing,"

⁸ See, e.g., US West Comments at 34-36; Sprint Comments at 31; AT&T Comments at 23-24.

⁹ CompTel Comments at 5; Time Warner Comments at 4.

¹⁰ See, e.g., MCI Comments at 25-26; LCI Comments at 4; Sprint Comments at 19-20.

“management of PC freeze[s],” “management of the process of releasing” PC freezes, “control of carrier access to customer . . . carrier selection information,” and “conflict resolution . . . for implementing the carrier to carrier liability provisions.”¹¹ This recommendation is totally unnecessary.

First, these commenters offer nothing but sheer speculations about problems they predict will develop among incumbent LECs and a few isolated anecdotes to support their recommendation. They are attempting to correct a problem that does not, and may never, exist.

Second, existing statutes and rules are adequate to address any problem that may arise in the future. For example, Section 202 already makes it “unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device”¹²

Finally, there is no record evidence of how much it would cost the industry to implement a third party administrator, but it would certainly be exorbitant. In order to process PC changes, as the commenters propose, the third party would need to establish electronic interconnections with each of the thousands of carriers that offer local, intraLATA toll or interexchange services in order to receive their PC change requests. These interconnections and the third party’s down stream systems would need the capacity to handle each and every PC change request – local, toll and interLATA –

¹¹ MCI Comments at 25-26 and Sprint Comments at 19 n.16.

¹² 47 U.S.C. § 202(a).

across the country. The third party would also need access to every local exchange carrier to execute PC changes through software changes in their switches. It would also need a work force in nearly every LEC central office to execute PC changes through the coordinated transfer of loop facilities from one carrier's switch to another's. Needless to say, the cost of this third party operation for processing PC changes alone would be staggering and unwarranted.

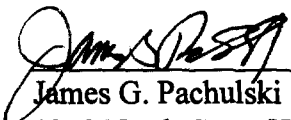
Conclusion

The Commission should adopt PC change verification rules that apply uniformly to new entrants and incumbents. There is no reason to impose discriminatory requirements that competitively disadvantage incumbents in order to address problems which do not even exist.

Respectfully submitted,

The Bell Atlantic telephone companies

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Date: September 29, 1997